

## General Government Division

B-247262

February 6, 1992

The Honorable J.J. Pickle  
Chairman, Subcommittee on Oversight  
Committee on Ways and Means  
House of Representatives

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ELECTE  
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S G D

MONEY LAUNDERING: TREASURY CIVIL CASE  
PROCESSING OF BANK SECRECY ACT VIOLATIONS

Dear Mr. Chairman:

In July 1991, you requested information concerning the Department of the Treasury's Office of Financial Enforcement's (OFE) processing of civil penalty referrals for violations of the Bank Secrecy Act. The Bank Secrecy Act (BSA) is a major weapon against money laundering because it requires that certain transactions over \$10,000 are reported to federal agencies, thus making them easier to track. Because money laundering supports a wide range of illegal activities, full and vigorous enforcement of the act is an essential component of this country's war on crime. You specifically asked that we focus on OFE's civil penalty workload and the time OFE takes to process referrals. On January 23, 1992, we briefed your Subcommittee on the information we developed. As you requested, this report transmits the official results of our work.

## Results in Brief

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Historically, OFE has not processed BSA civil penalty cases in a timely manner. We found that OFE had allowed cases to remain inactive for months at a time, causing some cases to be closed because the statute of limitations had expired. Overall, OFE data showed declining numbers of referrals and penalties assessed between 1985 and 1991; however, we could not determine the cause of this decline. Case processing times averaged 21 months and ranged from 4 days to 6-1/2 years. Senior Internal Revenue Service (IRS), Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC) officials who are responsible for making BSA civil penalty referrals told us that, in their opinion, OFE processing times were excessive.

In the past, staff shortages and inadequate case management have contributed to the delays in processing civil penalty cases. OFE did not have systems in place to ensure that decisions had been reached, recommendations acted on, and requested information received or followed up on. OFE has recently added staff and taken actions designed to improve case management.

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## Background

The Bank Secrecy Act, enacted in 1970, requires financial institutions to maintain records and file certain reports that are useful in criminal, tax, and regulatory investigations, such as money laundering cases. The BSA's implementing regulations and procedures require financial institutions to file the following three kinds of reports:

- A Currency Transaction Report (CTR) must be filed with IRS by financial institutions and certain businesses, such as casinos and money transmitters, on all currency transactions exceeding \$10,000.
- A Report of International Transportation of Currency or Monetary Instruments must be filed with the U.S. Customs Service by institutions and individuals when moving currency or monetary instruments over \$10,000 into or out of the United States.
- A Report of Foreign Bank and Financial Accounts must be filed annually with IRS by individuals who have a financial interest in, or signature authority over, bank accounts, securities accounts, or other financial accounts in a foreign country if they exceed \$10,000.

Failure to file any of these reports can result in criminal and/or civil penalties, depending on the nature of the violation. Criminal investigations are the responsibility of IRS's Criminal Investigation Division (CID), with the exception of those concerning the international transportation of currency or other monetary instruments.

Civil penalties are assessed by the Assistant Secretary of the Treasury for Enforcement, who is assisted by OFE. OFE was established in 1985 and is responsible for, among other things, developing referrals of alleged civil violations of the act and making recommendations as to whether civil penalties should be assessed against noncompliant financial institutions and their officers, directors, and employees, and individuals, and if so, the amounts of the penalties. Civil penalties can range from \$500 for negligent violations and from \$25,000 to \$100,000 per willful violation.

OFE receives civil penalty referrals from IRS, financial institution regulatory agencies (e.g., FDIC and OCC), the institutions themselves, and others. OFE opens a civil penalty case on every referral. Information on the cases is maintained in a case tracking system used to identify the stage of processing. In the first step in processing, the referral is sent to IRS's CID to determine whether it should be handled as a criminal investigation and whether one is already under way. IRS initially has 120 days to make the determination and notify OFE of the results.

Once OFE receives clearance from IRS to pursue a civil penalty case, the referral is categorized as formal and is assigned to a BSA specialist for processing. The specialist determines the circumstances of the violation and obtains additional information concerning the subject of the referral. On the basis of the information in the referral and that developed by OFE, the specialist recommends one of three courses of action: close the case with no contact, issue a letter of warning, or assess a civil penalty. After OFE's Director or Deputy Director reviews and approves the recommended action, Treasury's Deputy Assistant Secretary for Enforcement is given the recommendation. The Assistant Secretary for Enforcement makes the final decision to assess a penalty.

Treasury does not categorize violations as substantive or technical, and Treasury officials have emphasized that they have "zero tolerance" for any violations of the act. Nevertheless, Treasury recognizes certain mitigating factors when deciding how to respond to violations. In many instances, OFE has closed a case by sending a warning letter that required the institution to backfile CTRs or take remedial actions. Similarly, OFE has closed a case with no contact if it was determined that the alleged violations did not occur, the case was outside Treasury's jurisdiction, or the violations were remedied at the time of the referral.

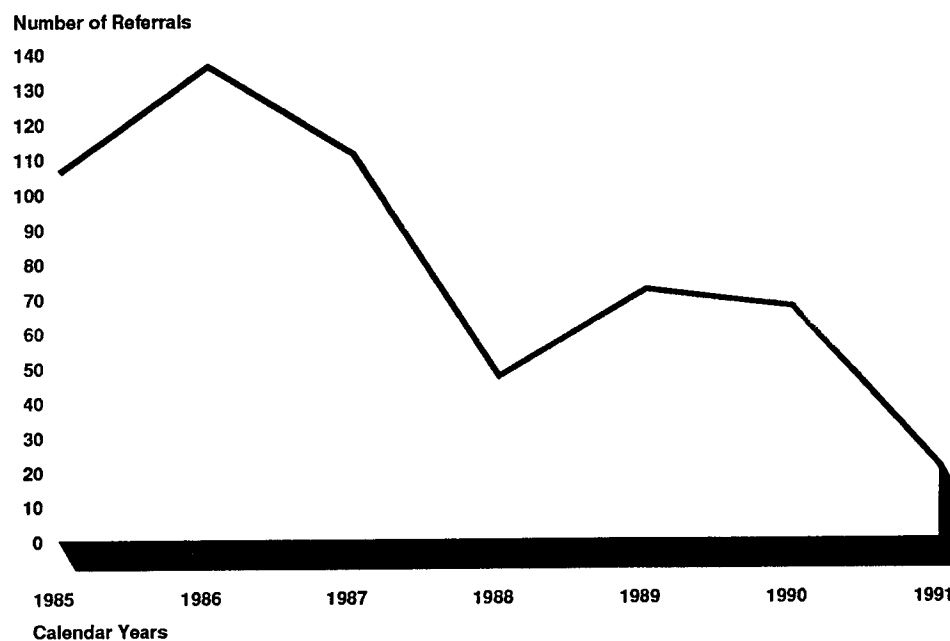
## Objectives, Scope, and Methodology

As agreed with the Subcommittee, our work focused on (1) OFE's civil penalty workload, (2) the time OFE takes to process civil penalty referrals, and (3) various case studies of both open and closed cases. We gathered the information in this report from statistical reports provided by OFE's case tracking system. We reviewed in detail selected open and closed civil penalty cases and interviewed OFE officials in order to identify what actions had been taken concerning the cases and when. Specifically, we did case studies on 20 civil penalty cases that were open as of October 24, 1991 (see app. I), and 21 cases that were closed during the period a Treasury task force was in operation (April 12 through September 30, 1990) (see app. II). We also reviewed agency documents and interviewed officials at IRS, OCC, and FDIC. Our work was done from August to October 1991. We discussed this report with OFE officials, who generally agreed with the information presented.

## Civil Penalty Referrals Declining; Fewer Penalties Assessed

Civil penalty referrals received by OFE decreased 85 percent, from 136 to 21, between 1986 and 1991 (see fig. 1). The source of referrals also shifted. In 1985, most referrals were submitted voluntarily from the institutions themselves, but in 1990, most referrals came from IRS (see fig. 2).

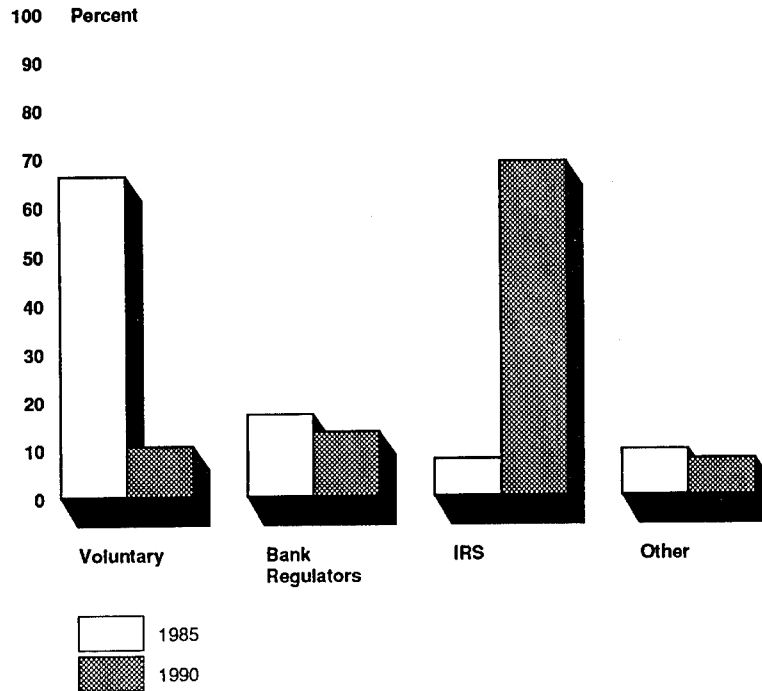
Figure 1: Total Referrals: 1985-91



Note: Referrals are those received as of October 24, 1991.

Source: GAO, derived from OFE data.

Figure 2: Sources of Referrals



Source: GAO, derived from OFE data.

The number of cases closed has fluctuated during the same period, and the inventory of cases awaiting resolution has remained relatively constant. There were 159 cases in process at year-end 1986 and 142 cases as of October 24, 1991. From 1985 through October 1991, OFE closed 421 cases.

Of the 421 cases closed since 1985, 11 percent resulted in a penalty assessment. However, the number of penalties assessed—as well as the percentage of cases closed with a penalty—has steadily decreased from 15 in 1986 to 1 in 1991. OFE attributed this decrease to improved compliance with the reporting requirements, resulting in less serious violations being referred.

About 54 percent of all cases closed since 1985 resulted in letters of warning being sent, while 35 percent were closed with no contact. The percentage of cases closed with no contact has increased from 8 percent in 1986 to 70 percent in 1991. Although the percentage of cases closed with no contact has increased substantially over the past 6 years, OFE does not

attribute any significance to this trend. Table 1 shows OFE's overall civil penalty workload since 1985.

**Table 1: Civil Penalty Referrals  
Processed by OFE**

	1985	1986	1987	1988	1989	1990	1991 <sup>a</sup>	Total
Beginning inventory	3	100	159	192	180	194	158	
Referrals received	106	136	111	47	72	67	21	<b>563<sup>b</sup></b>
Active cases	109	236	270	239	252	261	179	
Cases closed	9	77	78	59	58	103	37	<b>421</b>
Penalty assessed	9	15	11	5	4	2	1	<b>47</b>
Letter of warning	0	56	48	40	20	53	10	<b>227</b>
No contact	0	6	19	14	34	48	26	<b>147</b>
Ending inventory	100	159	192	180	194	158	142	

<sup>a</sup>As of October 24, 1991.

<sup>b</sup>Includes the three referrals in beginning 1985 inventory.

Source: GAO, derived from OFE data.

## Civil Penalty Referrals Were Not Processed in a Timely Manner

In January 1990, Treasury's Inspector General reported that, as of February 1989, OFE had a backlog of 220 civil penalty cases—all of the open cases that were pending at that time. The report attributed the backlog primarily to a lack of staff and, to a lesser extent, insufficient priority given to processing the cases and inadequate written procedures. In September 1990, the Assistant Secretary testified before the Subcommittee on Oversight that, in response to the Inspector General's report, a special Treasury task force had been formed (5 specialists and 2 secretaries) and, working with the OFE staff already on board, the task force had reduced the number of pending cases to about 100—what OFE considered a "normal" workload.

As table 1 shows, the number of cases closed during 1990 did increase substantially from previous years, due in large part to the efforts of the task force. However, as of October 24, 1991, OFE's inventory of open cases was 142.

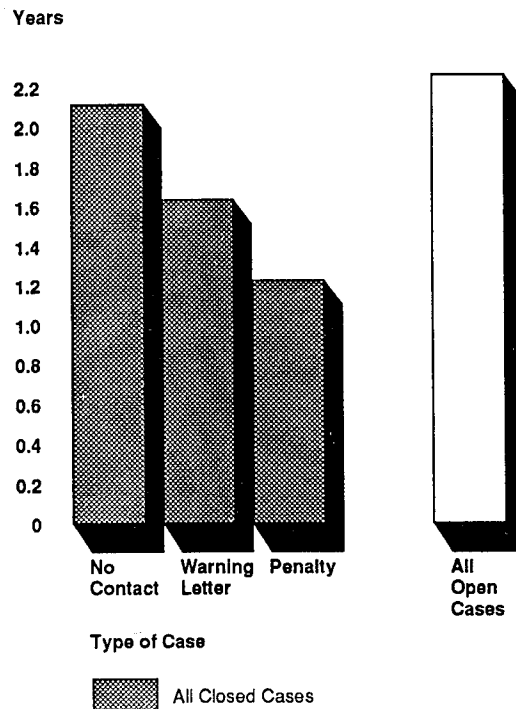
Although we do not agree with the Inspector General's report that all of the open cases are necessarily a backlog, we do agree with the report's conclusion that OFE did not process civil penalty cases in a timely manner.

OFE's average time to close all 421 cases to date was 1.75 years and ranged from 4 days to 6-1/2 years. The average age of the 142 cases that were open as of October 24, 1991, was 2.26 years, including one case that has been open for 6-1/2 years.

OFE officials told us that the average time for closing a case includes the time IRS evaluates whether or not to conduct a criminal investigation. Initially, IRS has 120 days to make a determination whether to open a criminal investigation. If initiated, criminal investigations have taken IRS anywhere from 1 month to over 4 years to complete.

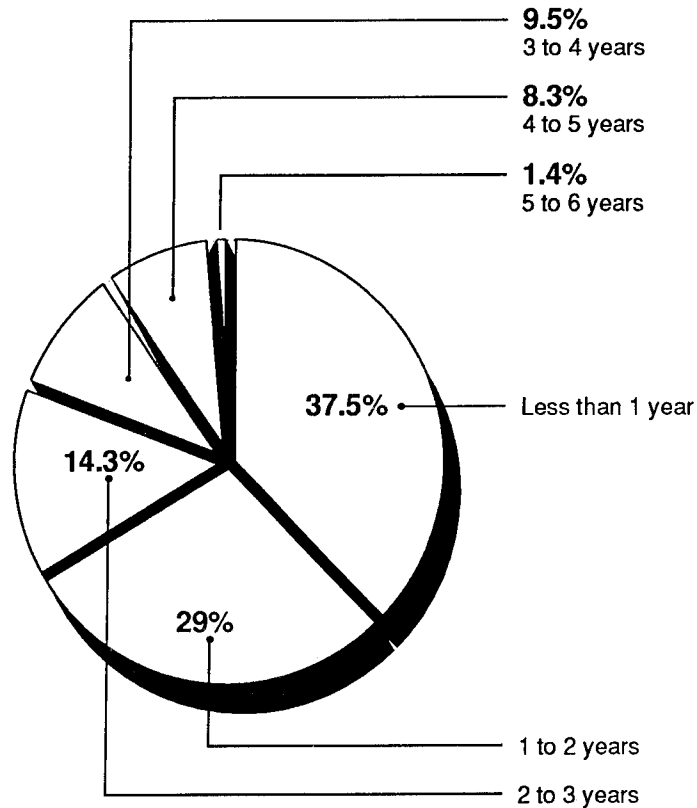
Figure 3 presents the average ages of the referrals according to status and type of action taken. Figure 4 shows the percentage of cases closed within 1 to 6 years.

**Figure 3: Average Processing Times for Cases**



Source: GAO, derived from OFE data.

**Figure 4: Percent of Cases Closed Within 1 to 6 Years**



Source: GAO, derived from OFE data.

To assess OFE case processing, we analyzed 20 open civil penalty cases at OFE. In 13 of the 20 cases we reviewed, we found periods of inactivity in which no action had been taken for several months, and in some cases, for more than a year. Specifically, we found instances in which

- OFE specialists made recommendations on how to proceed with a case but no action had been taken,
- OFE specialists had not pursued requests for additional information when no responses were received, and
- OFE specialists received the additional information they requested but had not acted on it.

Details of these 20 cases are provided in appendix I.



In order to determine the impact of changes made by OFE in response to the Inspector General's report, we also looked at the 34 civil penalty referrals received by OFE during the 1-year period ending July 31, 1991. In many of these cases, we found that several months elapsed before an action was taken. Examples follow:

- In November 1990, a specialist recommended closing without contact a referral on a bank received in July 1990. As of October 1991, no further action had been taken.
- In January 1991, a specialist recommended closing without contact a referral made by IRS in September 1990 concerning a private business. The recommendation was not acted on until June 1991.
- A referral concerning a savings and loan received in January 1991 had not been acted on since February 1991 when a specialist prepared a memorandum evaluating the case.

## The Effect of Lengthy Processing of Civil Penalty Cases

Senior agency officials we spoke with at IRS, OCC, and FDIC told us that, in their opinion, some civil penalty cases took an excessive amount of time to be closed. Some of these officials told us that although they were confident that their staffs were still making civil penalty referrals where appropriate, lengthy processing times have the potential of decreasing the number of referrals made.

Perhaps the most serious result of civil penalty cases remaining inactive for excessive periods of time is the expiration of the statute of limitations for the offense. We reviewed 20 of the cases that were closed without penalty during the period when the task force was in operation (from April to September 1990). In 11 of these cases, the expiration of the statute of limitations was a reason for closure. OFE officials told us, however, that none of the 142 cases that are currently open will have the statute of limitations expire before the case is resolved. (Details of the task force cases we reviewed are in app. II.)

## Staffing Problems Have Increased Processing Times

In commenting on the 1990 Inspector General's report, the Assistant Secretary for Enforcement stated that the only cause of OFE's "past backlog was the serious and long-standing shortage of staff in the office." Before July 1990, OFE had one full-time specialist responsible for processing the inventory of civil penalty cases, which has averaged more than 150 cases. Subsequently, three additional specialists have been hired. In addition, the OFE Director post was vacant from December 1990 until May 1991. The

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Deputy Director's position was vacant from May through September 1991, and there was no Chief of the Compliance Section from December 1990 to July 1991.

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## Agency Actions

OFE has made changes to its case tracking system and has implemented new policies aimed at improving its management and processing of civil penalty cases. To improve the accuracy of the information contained in the case tracking system, OFE now requires that all information be verified after entry by the Chief of the Compliance Section.

Additionally, OFE reviewed the case folders to determine the correct dates the statute of limitations expires for those cases for which the date was listed as unknown. Since October 1991, OFE has provided the Assistant Secretary for Enforcement with a Civil Penalty Monthly Status report, which provides information on the current inventory and status of cases. Treasury officials use the report in their oversight of the civil penalty workload.

To improve the processing of civil penalty cases, OFE is exchanging more information with regulators regarding case status. Since June 1991, OFE has sent IRS bimonthly memorandums to verify the status of open civil penalty cases that IRS has retained for criminal determination or investigation for more than 120 days.

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As arranged with the Subcommittee, we plan no further distribution of this report until 30 days after its date, unless you publicly release its contents earlier. After 30 days, we will send copies to the Secretary of the Treasury, the Commissioner of Internal Revenue, and other interested parties.

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Major contributors to this report are listed in appendix III. Should you need any additional information or have any further questions concerning the contents of this report, please contact me on (202) 566-0065.

Sincerely yours,

A handwritten signature in black ink, reading "Harold A. Valentine". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Harold A. Valentine  
Associate Director, Administration  
of Justice Issues

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## Abbreviations

BSA	Bank Secrecy Act
CID	Criminal Investigation Division
CTR	Currency Transaction Report
FDIC	Federal Deposit Insurance Corporation
IRS	Internal Revenue Service
OCC	Office of Comptroller of the Currency
OFE	Office of Financial Enforcement



# Case Studies of Open Civil Penalty Cases

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We reviewed the contents of 20 civil penalty cases from the Office of Financial Enforcement's (OFE) current inventory of active cases. As requested, we reviewed the 10 oldest civil penalty cases and 2 cases per year from 1987 through 1991, selected judgmentally. We selected this non-random sample of cases to provide a range of types of referrals and types of institutions referred. Each case summary is based exclusively on the written documentation contained in the case file, found during our initial review, as well as supplemental information that OFE officials provided us.

The case summaries attempt to reconstruct what actions OFE took to resolve the cases and when. Each case summary describes the activities and parties involved in violation of the Bank Secrecy Act (BSA). Because of staff turnover, we were not able to meet with OFE officials and task force members who worked on the early stages of the cases, to determine why certain actions were taken. On October 22, 1991, we met with current OFE officials to confirm the information in the 20 case summaries and to update the current status of the cases. Table I.1 lists the 20 cases reviewed.

**Appendix I**  
**Case Studies of Open Civil Penalty Cases**

**Table I.1: Civil Penalty Cases Reviewed**

Case	Type of Institution	Referring agency	Date received	Years open
1.	Financial institution	Voluntary	04/23/85	6.5
2.	Financial institution	Voluntary	05/24/85	6.4
3.	Currency exchange	State of California	06/05/85	6.4
4.	Financial institution	OCC	07/01/85	6.3
5.	Financial institution	Voluntary	12/09/85	5.9
6.	Financial institution	OCC	09/05/86	6.5 <sup>a</sup>
7.	Financial institution	Voluntary	09/18/86	5.1
8.	Financial institution	Voluntary	10/20/86	5.0
9.	Financial institution	IRS	01/02/87	4.8
10.	Financial institution	Voluntary	03/26/87	4.6
11.	Financial institution	IRS	09/08/87	4.1
12.	Financial institution	OCC	08/12/87	4.2
13.	Check casher	IRS	06/10/88	3.4
14.	Organization	IRS	11/04/88	3.0
15.	Check casher	IRS	03/17/89	2.6
16.	Money transmitter	IRS	07/07/89	2.3
17.	Financial institution	Voluntary	03/09/90	1.6
18.	Financial institution	IRS	04/23/90	1.5
19.	Financial institution	U.S. Attorney	01/22/91	0.8
20.	Financial institution	OCC	03/08/91	0.6

<sup>a</sup>Certain documents in the file date back to April 29, 1985.

## Case 1

A California bank voluntarily disclosed in a letter dated April 23, 1985, that over a 5-1/2 year period, 4 of its 21 branches did not file Currency Transaction Reports (CTR) for over 4,800 transactions. These unreported transactions totaled over \$290 million and mostly involved bank-to-bank transfers. Another letter noted that between June 19, 1985, and September 13, 1985, the bank backfiled individual CTRs for all transactions not previously reported.

As a first step in processing, the referral was sent to IRS in order to determine whether the case would be treated as a criminal investigation. However, the file did not contain the transmittal memorandum that would indicate when the case was first submitted to IRS. OFE officials told us that IRS notified them on June 30, 1988, to pursue a civil penalty case against the institution.

On August 2, 1991, a BSA specialist recommended closing the case with a warning letter, because subsequent examinations of the bank and its branches had not uncovered significant BSA violations. The specialist reported that the case was still open because OFE had requested BSA compliance reports from the Office of the Comptroller of the Currency (OCC) for all 21 branches.

As of October 22, 1991, the case was still open. OFE officials told us that they were waiting for a compliance report on one of the branches and would close the case if the report did not uncover any additional BSA violations.

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## Case 2

A New York bank voluntarily disclosed in a letter dated May 24, 1985, that it had backfiled 617 CTRs with IRS for previously unreported transactions that had occurred between 1981 and 1984. On April 21, 1987, the U.S. Attorney in New York asked OFE to delay proceeding with a civil penalty case against the bank because of an ongoing criminal investigation. IRS notified OFE in a letter dated July 25, 1991, that the criminal investigation on the bank had been closed. The letter did not indicate whether this was the same investigation undertaken by the U.S. Attorney.

As a second step in processing, a BSA specialist reviewed the case on August 9, 1991, and made a recommendation to close the case with a warning letter. The specialist reasoned that a warning letter was appropriate because OCC's BSA compliance reports on the bank gave satisfactory marks to the bank's BSA compliance program.

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## Case 3

The state of California's banking department made two referrals on a California money exchange establishment that had committed BSA violations. The first referral, dated June 5, 1986, notified OFE that the money exchange enterprise did not file 18 CTRs in 1985. The second referral, dated March 5, 1987, noted that additional BSA violations occurred in July 1986.

As a first step in processing, OFE transmitted the case to IRS on May 29, 1987, for a criminal determination. OFE officials told us that as of October 22, 1991, IRS was investigating the case.



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## Case 4

On July 1, 1985, OCC made a referral on a bank in Los Angeles based on the results of a compliance examination. OCC also evaluated the bank's BSA compliance program in 1986, 1987, 1988, and 1989. Copies of the examination reports were in the file. There was no indication in the file of whether OFE requested all of the reports or OCC submitted them as additional referrals.

OCC's District Counsel submitted a compliance report in 1989 that criticized the bank's board of directors for their poor compliance with the BSA. The report documented a variety of BSA violations that included nine unreported transactions, ineligible customers on the exemption list, incomplete CTRs, and record-keeping violations. The District Counsel recommended to OFE that a civil penalty be assessed against the bank.

A civil penalty task force member reviewed the case on June 25, 1990, and recommended that a civil penalty be assessed against the bank and possibly against the bank's officers and board of directors because of the severity of the violations reported in the 1989 examination. The reviewer noted that the violations detailed in the 1985 referral could not be pursued because the statute of limitations had expired.

Apparently, OFE took no action on the recommendation. A BSA specialist reviewed the case a second time on September 17, 1991, and recommended closing the case with a warning letter because the referral was not substantive. We were told that this recommendation was rejected and that, as of October 22, 1991, OFE had recommended assessing a penalty on the most recent violations. A prepenalty letter to the bank had been drafted but was unsigned.

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## Case 5

A Minnesota bank voluntarily disclosed in a letter dated December 9, 1985, that it had backfiled with IRS previously unreported CTRs. In additional letters dated January 8 and February 24, 1986, the bank voluntarily informed OFE how and why the violations occurred, submitted a list of customers who may have been improperly exempted, and provided a description of revised BSA compliance procedures.

An Assistant U.S. Attorney asked OFE on March 12, 1986, to delay proceeding with a civil penalty case until a criminal determination could be made on the case. Further, the Director of OFE wrote a memo dated June 22, 1987, to IRS agreeing to hold the civil penalty case in abeyance pending the outcome of IRS' criminal investigation. A June 26, 1991,

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internal memorandum noted that IRS' was investigating one branch of the bank.

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## Case 6

On April 29, 1985, OCC made a referral on a Texas bank that had not filed CTRs for 67 unreported transactions between December 1982 and January 1984. OCC had uncovered the violations during a January 1984 compliance examination.

In November 1986, the U.S. Customs Service informed OFE that suspect financial transactions could have occurred at the bank between 1983 and 1986. The file contained no evidence of any OFE action on the second referral. In a letter dated December 10, 1986, OFE asked the bank to explain how and why the violations occurred, describe the changes in the bank's BSA compliance program, and backfile CTRs for certain transactions. The file contained no record of the bank's response to the letter.

In a case evaluation dated March 29, 1989, a BSA specialist recommended sending the bank a certified letter requesting a response to the December 1986 letter. The file contained no indication of whether this letter was ever sent.

In a note dated April 4, 1990, the Director of OFE asked a BSA specialist to obtain copies of OCC compliance exams on the bank and to determine whether IRS and Customs had any ongoing criminal investigations on the bank. On July 16, 1991, a BSA specialist reviewed the case and recommended closing the case without contact. On November 6, 1991, an OFE official told us that they had just learned that Customs had closed its investigation on the bank in 1989 and that the state banking department in Texas had closed the bank in 1990.

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## Case 7

A Texas bank voluntarily disclosed in a letter dated July 24, 1986, that it could not confirm whether CTRs had been filed for 36 transactions in November 1985 and in January and February 1986. The bank also disclosed in a letter that it had implemented new control procedures to ensure timely filing of all CTRs.

OFE's first step in processing the case was to write a letter to the bank, dated October 28, 1986, requesting additional information about why CTRs were not filed in a timely manner. The bank responded in two letters, dated January 8 and June 22, 1987. In a September 9, 1987, letter, OFE asked

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Customs to provide copies of Reports of International Transportation of Currency and Monetary Instruments for certain bank transactions.

As of October 22, 1991, OFE officials said that OFE was waiting to receive a copy of OCC's latest BSA compliance examination on the bank. The case file held a copy of a draft warning letter but showed no indication of whether the letter had been sent.

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## Case 8

A California bank voluntarily disclosed in a letter dated October 16, 1986, that an internal audit had revealed that the bank had not filed 506 CTRs. On October 28, 1986, OCC made a referral on the bank because, during a 9-day period in 1986, the bank did not file 18 CTRs and did not properly complete 30 CTRs. The referral noted that the bank had previously been instructed not to contact OFE, until OCC submitted the referral.

On March 18, 1987, IRS informed OFE that the evidence in the case did not support a criminal investigation. The file contained a BSA compliance report conducted by OCC in 1989, which discussed independent testing procedures the bank adopted to verify the timely filing of CTRs. As of October 22, 1991, the case was still open. OFE officials told us that they would close the case with a warning letter and would require the bank to backfile CTRs on certain transactions involving nonexemptible entities.

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## Case 9

On January 2, 1987, IRS submitted a referral on a Texas bank that did not file 48 CTRs between November 1982 and November 1985. The referral noted that IRS had investigated the bank between May 1986 and January 1987. Therefore, there was no need to return the case to IRS.

In a letter dated May 22, 1987, OFE requested the Federal Deposit Insurance Corporation (FDIC) to submit copies of any recent BSA examination reports on the bank. On July 5, 1988, FDIC provided OFE with two examination reports, dated August 1981 and June 1984. In a letter dated August 25, 1988, OFE asked the bank to provide selected information on how and why the violations occurred, which the bank provided in a letter dated November 3, 1988.

On April 27, 1990, a civil penalty task force member evaluated the case and on June 18, 1990, recommended three alternative strategies for closing the case—no contact, a letter of warning, or an assessment of a penalty. Any action taken would depend on the results of the FDIC evaluation on the

bank's BSA compliance program and on the bank's effort to backfile CTRs. The file contained no evidence that OFE took action on the recommendations.

A BSA specialist evaluated the case on July 16, 1991, and recommended closing the case with a warning letter because the CTRs in question had been backfiled. As of October 22, 1991, OFE officials planned to close the case with a warning letter, pending the results of an FDIC evaluation on the bank's BSA compliance program.

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## Case 10

A Connecticut bank voluntarily disclosed in a letter dated March 25, 1987, that it did not file five CTRs in October 1984. Attached to the letter were copies of the late-filed CTRs. Between February 1987 and February 1991, IRS conducted a criminal investigation on the bank, during which OFE held the file in abeyance.

On February 26, 1991, IRS informed OFE by letter that the criminal case had been closed and OFE could pursue a civil penalty case against the bank. However, OFE was unable to take action because the statute of limitations had expired on the violations. OFE officials told us that the case would be closed with no contact.

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## Case 11

We reviewed a file on a savings and loan institution in Texas that filed five false CTRs and neglected to file CTRs for \$142,000 and \$74,000 in deposits made in 1983 and 1984, respectively. The file did not contain the original referral IRS sent, but evidence in the file indicated that OFE had known about the case since 1986. However, the file did contain a letter, dated September 5, 1986, in which OFE advised the Federal Home Loan Bank Board to suspend future compliance examinations on the institution until an ongoing IRS investigation was completed.

In a letter dated September 8, 1987, IRS notified OFE that the criminal investigation on the institution had been discontinued and a civil penalty case could be pursued. On December 1, 1987, OFE requested a copy of a BSA compliance report on the institution from the Federal Home Loan Bank Board.

A civil penalty task force member reviewed the case on April 17, 1990, and reported that in 1988 another financial institution had purchased the savings and loan. OFE officials told us that they combined the civil penalty

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case involving the savings and loan with a civil penalty case involving the purchaser. The Office of Thrift Supervision had made a referral dated March 28, 1990, on the purchaser, which had not filed 89 CTRs and had submitted incomplete and inaccurate CTRs. OFE had transmitted the referral on the purchaser to IRS on April 5, 1990. OFE officials told us that as of October 22, 1991, IRS was investigating the second institution.

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## Case 12

OCC made a referral in a letter dated August 10, 1987, that a Missouri bank had exempted nonexemptible entities, had given inadequate reasons for granting exemptions, and had processed 84 CTRs with incomplete or incorrect information. On December 9, 1987, IRS notified OFE by letter that the evidence did not support a criminal investigation on the bank and that OFE was to proceed with a civil penalty case against the bank. The file did not contain any information that indicated when the case was first submitted to IRS.

In a letter dated June 27, 1990, OFE requested OCC to provide the latest BSA compliance examination on the bank, which OCC provided on July 24, 1990. The examination gave the bank a satisfactory BSA compliance rating.

A BSA specialist reviewed the case on May 19, 1991, and recommended verifying whether the bank had backfiled CTRs on the unreported transactions. The specialist also recommended obtaining a copy of the most recent OCC examination on the bank. The file contained no evidence that OFE took action on the recommendations. OFE officials told us that the case would be closed with a warning letter and that no backfiling would be required.

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## Case 13

IRS submitted a referral dated June 10, 1988, on a Florida check cashing business, which had not filed CTRs on 12 reportable transactions between March 1987 and August 1987. The referral noted that the owner of the business had altered documents and structured transactions to avoid filing CTRs.

On June 15, 1988, OFE submitted the referral to IRS for a criminal determination. On April 13, 1989, a BSA specialist completed a case evaluation, which recommended assessing a civil penalty. On April 19, 1989, IRS formally notified OFE by letter to pursue a civil penalty against the check cashing establishment.

In a letter dated September 19, 1989, OFE asked the check cashing business for information on how and why the violations occurred, which the company supplied on October 4, 1989. According to a BSA specialist, the response did not provide the requested information. On September 17, 1990, OFE requested the same information a second time, which the company provided on January 7, 1991.

On June 27, 1991, a BSA specialist recommended assessing a \$25,000 penalty and requiring the business to backfile CTRs for the unreported transactions. The specialist also suggested inviting the company's attorney to a penalty negotiation conference.

The file also contained a note, undated, with a recommendation from the Chief of OFE's Compliance Section to assess a civil penalty for structuring transactions to avoid filing CTRs. The note also mentioned the possibility of mitigating the penalty because the check casher was a new business and may have been unfamiliar with all the reporting requirements of the BSA. OFE officials told us that a prepenalty letter had been drafted and would be sent out "sometime soon."

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## Case 14

IRS made a referral on November 4, 1988, on an organization that had submitted 1,354 CTRs with incomplete or incorrect information, had not filed 531 CTRs, and had committed 15 record-keeping violations between May 1985 and June 1987. The referral cited the organization's management as indifferent to implementing the requirements of BSA, because 45 percent of all CTRs filed were filled out with incomplete information.

In a letter dated November 28, 1990, OFE notified the organization that Treasury was considering assessing a civil penalty for apparent violations of the BSA. The letter asked the organization to explain how and why the alleged violations occurred and to provide a report of any corrective actions undertaken to improve BSA compliance. On February 21, 1991, the organization submitted a response, which was forwarded to IRS for evaluation. As of October 22, 1991, IRS was reviewing the case.

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## Case 15

IRS made a referral dated March 17, 1989, on a check cashing business located in Washington, D.C., that did not file a CTR for a \$19,597 transaction. On March 23, 1989, OFE sent the case to IRS for a criminal determination.

An OFE memorandum, dated June 26, 1991, indicated that IRS had notified OFE in 1990 that the criminal investigation against the check casher had been closed on June 6, 1988. In a letter dated June 27, 1991, IRS informed OFE that it had no record of receiving the referral.

As of October 22, 1991, OFE officials told us that the case would not be reviewed until IRS completed its investigation and officially notified OFE. We were told that OFE had asked IRS to file a close-out memorandum on the case, but IRS had not provided it.

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## Case 16

IRS made a referral dated July 5, 1989, on a money transmitter in Minnesota that did not file a CTR. On July 19, 1989, OFE sent the case to IRS for a criminal determination, along with a memorandum that specified that a reply was due on October 19, 1989. In a letter dated June 26, 1991, IRS requested extending the criminal investigation until December 12, 1991.

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## Case 17

An Illinois bank voluntarily disclosed in a letter dated March 9, 1990, that it had improperly exempted 2 accounts and had not filed required exemptions for 13 accounts. In a letter dated July 9, 1990, the bank responded to an OFE request for information on how and why the violations occurred.

On August 8, 1990, OFE sent the case to IRS for a criminal determination. In a letter dated February 6, 1991, IRS informed OFE that the evidence in the case did not warrant any criminal action. There is no indication of whether OFE took any further action.

OFE officials told us that the specialist who was originally assigned to the case had been reassigned to a different group. Inadvertently, the civil penalty case sat with no action, but recently the case had been reassigned to another BSA specialist.

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## Case 18

IRS made a referral, dated April 19, 1990, on a Louisiana bank that did not file a CTR on a nonexemptible transaction. IRS noted in the referral that the evidence in the case did not warrant a criminal investigation.

In addition to the referral, the file contained a copy of a BSA compliance report filled out by FDIC on May 25, 1990. OFE officials told us that they planned to draft a letter to the bank asking for information on how and why the CTR was not filed and that they would require the bank to backfile the CTR.

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## Case 19

An Assistant U.S. Attorney made a referral, dated January 22, 1991, on a Minnesota bank, in which the vice president had knowingly structured cash transactions to avoid filing CTRs. The file contained a letter from IRS, dated August 12, 1991, that informed OFE that the vice president pled guilty to structuring transactions. OFE officials told us that they would close the case when they received a copy of the closing report and indictment from the U.S. Attorney's Office.

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## Case 20

OCC made a referral, dated March 8, 1991, on a Virginia bank that did not file CTRs for three transactions that exceeded established limits for exemptible customers. The referral listed record-keeping violations that were technical in nature and reported that the examiner had secured necessary compliance remedies at the end of the examination.

On June 12, 1991, IRS informed OFE in a letter that the evidence in the case did not support a criminal case against the bank. The file did not contain the date when the case was submitted to IRS.

On October 10, 1991, a BSA specialist recommended closing the case without contact. On October 15, 1991, the Chief of OFE's Compliance Section reviewed the evaluation and recommended issuing a warning letter. On October 18, 1991, OFE's Deputy Director approved and signed the evaluation report containing the Chief's recommendation. OFE officials told us they would close the case with a warning letter.



# Civil Penalty Task Force Case Studies

The civil penalty task force was a five-member team comprising five employees detailed full time from the U.S. Customs Service, IRS, OCC, and Office of Thrift Supervision. The task force was assembled to eliminate a civil penalty case backlog of over 200 cases identified in the January 10, 1990, Treasury Office of Inspector General audit report on OFE's implementation of the BSA. OFE was to have eliminated the backlog by October 1, 1990.

The task force reviewed all active cases between April 12 and September 30, 1990. During this period, there were 237 active civil penalty cases, of which 83 were closed. Eighty-two cases were closed with either no contact or a warning letter. Treasury assessed one penalty, which was not collected because the financial institution failed.

As requested by the Subcommittee, we reviewed 10 cases that were closed with no contact, 10 cases closed with a warning letter, and the 1 case that was assessed a civil penalty. The objective of our analysis was to provide an overview of whether cases were closed with minimal actions. We selected the cases that had been open the longest amounts of time. Table II.1 summarizes the information we gathered on the cases.

**Table II.1 Civil Penalty Task Force Case Studies**

Case Number	Date Received	Date Closed	No. of Violations	Type of BSA Violation	Disposition	Rationale
1.	6/27/89	8/10/90	13	Unreported transactions—federal money laundering operation involving bank official.	\$360,000 penalty assessed, collection suspended.	Previous warning letter sent on 6/20/86; financial condition of bank; penalty will not be enforced on bank successor so as not to dissuade potential buyers.
2.	6/6/85	9/26/90	4,450	Unreported transactions—exemptible	No contact	Statute of limitations expired; bank took corrective action.
			256	CTRs incomplete		
			12	Ineligible customers on exemption list		
3.	8/12/85	5/9/90	113	CTRs filed outside 15-day limit	No contact	Statute of limitations expired; good compliance program; violations were neither willful nor negligent.
4.	9/26/85	9/17/90	67	CTRs filed outside 15-day limit	No contact	Statute of limitations expired; absence of contact with bank; no penalty potential.

(continued)

**Appendix II  
Civil Penalty Task Force Case Studies**

<b>Case Number</b>	<b>Date Received</b>	<b>Date Closed</b>	<b>No. of Violations</b>	<b>Type of BSA Violation</b>	<b>Disposition</b>	<b>Rationale</b>
5.	8/13/85	4/19/90	426	Unreported transactions	No contact	Statute of limitations expired on all but one of the violations with no statute of limitations waiver; remedial actions taken; BSA compliance was satisfactory (FDIC exam).
			33	CTRs filed outside 15-day limit		
6.	2/18/86	9/17/90	79	Unreported transactions—nonexemptible	No contact	CTRs backfiled or corrected; unreported transactions were for businesses later exempted.
			6	CTRs incomplete		
			2	CTRs filed outside 15-day limit		
				Exemption list problems and record-keeping violations—no specific numbers given.		
7.	12/9/85	5/11/90	84	CTRs filed outside 15-day limit	No contact	Statute of limitations problem on some of the violations; pattern of voluntary disclosures; no violations (FDIC exam).
8.	4/4/86	4/19/90	1	CTR filed outside 15-day limit	No contact	No action warranted; no additional referral of noncompliance.
9.	7/3/86	6/13/90	165	CTRs filed outside 15-day limit	No contact	Statute of limitations expired on all but one violation; voluntary referral; erroneously exempted customer; CTRs backfiled.
10.	5/7/87	9/27/90	9	Unreported transactions—involved 3 businesses	No contact	Corrective actions taken; no BSA violations in recent examinations.
11.	3/20/87	7/27/90	7	Unreported transactions—structured and involved bank insiders	No contact	Bank closed on 7/28/89, OFE not notified until 7/19/90; no bank successor named.
12.	4/5/85	5/15/90	168	CTRs filed outside 15-day limit	Warning letter	Institution addressed administrative deficiencies; CTRs were not significantly late; OFE never indicated penalties were warranted.

(continued)

**Appendix II  
Civil Penalty Task Force Case Studies**

<b>Case Number</b>	<b>Date Received</b>	<b>Date Closed</b>	<b>No. of Violations</b>	<b>Type of BSA Violation</b>	<b>Disposition</b>	<b>Rationale</b>
13.	6/20/85	5/15/90	56	Ineligible customers on exemption list	Warning letter	Statute of limitations expired with no waiver; compliance was good (OCC exam); most violations discovered before 1985 exam; exemption list problem corrected.
			39	CTRs incomplete		
			173	Exemption limits exceeded or not precise		
			4	Unreported transactions		
14.	7/2/85	5/15/90	1,850	Unreported transactions	Warning letter	Statute of limitations expired; voluntary disclosure; institution has cooperated with OFE; recent OCC exam was favorable.
			969	CTRs incomplete		
15.	7/12/85	5/15/90	5	Unreported transactions—nonexemptible	Warning letter	Statute of limitations expired with no waiver.
16.	8/28/85	5/10/90	73	Unreported transactions—exemptible and nonexemptible	Warning letter	CTRs backfiled; positive subsequent compliance examination; statute of limitations expired on all but 20 of the violations.
17.	1/21/86	9/21/90	30	Unreported transactions—exemptible and nonexemptible	Warning letter	OCC exams cited high level of compliance; improved compliance reports; voluntary disclosure; institution implemented effective compliance program.
			72	Ineligible customers on exemption list		
			151	CTRs incomplete		
18.	1/31/86	9/21/90		Unreported transactions—no specific numbers given, involved currency exchange transactions between 1980 and 1985.	Warning letter	Voluntary disclosure; positive subsequent compliance examinations; backfiling initiated by institution; compliance program in place; no subsequent BSA problems.

(continued)

**Appendix II  
Civil Penalty Task Force Case Studies**

<b>Case Number</b>	<b>Date Received</b>	<b>Date Closed</b>	<b>No. of Violations</b>	<b>Type of BSA Violation</b>	<b>Disposition</b>	<b>Rationale</b>
19.	1/31/86	9/21/90	1,458	Unreported transactions	Warning letter	Statute of limitations expired; corrective action undertaken by management; positive subsequent compliance examinations.
			1,449	CTRs filed outside 15-day limit		
			1	Ineligible customer on exemption list		
20.	10/31/85	6/19/90	4	Unreported transactions	Warning letter	Corrective action undertaken; positive subsequent compliance examinations; timing and severity of violations.
			22	CTRs incomplete		
				Inaccurate exemption list		
21.	10/17/85	4/26/90	41	Unreported transactions	Warning letter	Positive subsequent compliance examinations; corrective action undertaken; CTRs backfiled.
			9	Ineligible customers on exemption list		

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